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CHAPTER 3

Interim Governments in Theory and Practice After Protracted Conflict

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International statesmen and scholars have for some years now focused on a domestic political question: who rules when the fighting stops? The mechanics of authority transitions—ostensibly an internal sovereign concern—have become an international preoccupation. Practitioners from outside war-torn societies broker constitutional arrangements, provide military and police to sustain order and enforce laws, and fashion aid programs in order to move transitions forward. These practitioners by and large operate according to a state-centric paradigm, even while violating its rules.

State-builders patch sub-state ruptures in order to sustain the larger structure—a system of relations among states based upon sovereign equality and non-intervention. In the transition from one form of rule to another, interim or temporary governance structures—sometimes several iterations of them—are formed.[3]

This chapter defines interim government, its functions and forms, and identifies some dilemmas for contemporary state-builders.

Defining Interim Government

Interim government could be broadly defined as an organization that rules during the period between the fall of a prior regime and the initiation of the next—the transition period. If it is temporary, how does one know when it is over? For those interested in democratization, the marker might be the assumption of power of a freely elected government.[4] State-building sets a different marker: when a new or reconstituted, permanent domestic government is able to wield *effective internal sovereignty*—including resumption of law and order functions of governance.[5] Sovereignty is internal with respect to its citizens; it is external with respect to representation before the international community. It is persistent and non-transferable, according to international law, even in the presence of military occupation. The exercise of effective internal sovereignty by a permanent domestic government requires that the transition settle a social process: the collective determination of the right to rule, also called the determination of legitimacy.

Other actors in the system might be in interested in the outcome of regime change because it identifies a point of contact for international relations, as well as the authorities obliged to control affairs within those borders. For members of a polity in transition, the determination of a new political order is much weightier than the identification of authorities to obey. It involves a leap of faith in processes in place to articulate and represent interests. Although legitimacy is commonly conceived in vertical terms of authority relations, legitimacy is also horizontal—a shared sense of right governance among the communities that make up the polity.[6] In the shadow of its former state, the new order must recognize the legacy of the old—its residual legitimacy, laws still on the books, and habits of obedience still practiced by its people. Any effort to construct a new order must do more than secure external recognition; it must provide a normative foundation for new habits. Despite the legacy effects of the old order and the uncertainty of a change, new normative structure is possible.

As the political theorist Charles Taylor explains, we employ a *social imaginary* to enable, and perhaps codify, the moral or normative order:

> …the modern theory of moral order gradually infiltrates and transforms our social imaginary. In this process, what is originally just an idealization grows into a complex imaginary through being taken up and associated with social practices, in part traditional ones, which are often transformed by the contact.

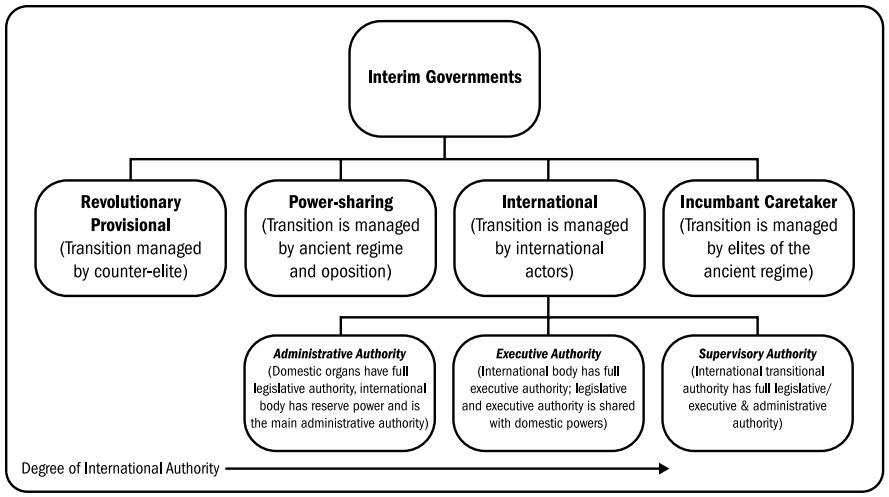
Transitional Forms

The shape and form of interim government is highly dependent on the nature and scope of the conflicts initiating all of this change. In earlier waves of transition studies, these conflicts were about authoritarian transitions from civilian to military rule (El Salvador, Indonesia, and Guatemala) or economic-ideological transitions from communist rule. Some of the conflicts have been very bloody, stemming from independence movements (as in East Timor and Kosovo); irredentism (Bosnia); or competition for control of the state by internal factions (Afghanistan, Iraq). The requirements for transitional governance vary, as Michael Doyle observes, with the environments in which they operate, and the number of factions within them, the coherence of those factions, and their hostility to one another.[7]

Interim governments might be fashioned together from remnants of an old regime (as in Indonesia), created new by a revolutionary victor (Afghanistan), forged as a pact by competing factions (Burundi, DRC), or superimposed by outside authorities (Iraq). Each of these forms carries its own promises and perils with respect to the viability and longevity of peace and the determination of legitimacy or consent of the governed. The first wave of scholars identified four basic forms of interim governments, some of which include little role for

outside actors. As the role of outside actors increased, scholars began to differentiate the international genre of interim governance. These relations are depicted in a typology prepared in a comparative study led by myself and Jessica Piombo, and published in the 2008 volume, *Interim Governments* as follows:

A Typology of Interim Government[8]



Revolutionary regimes enjoy popularity, but have little connectivity to established structures and a tendency to turn violent as agendas compete and scores are settled. Caretaker regimes tend to be legalistic rather than democratic and, because they depend upon the good will of the former regime, favor amnesty over transitional justice. Power-sharing regimes depend upon pacts, sometimes among thugs, and the power basis of these may shift. International structures may confer external legitimacy but suffer internal deficits, as they are hard-pressed to manage internal rivals claiming a right to rule. The international community is slow to intervene and cumbersome to organize when it does, creating, as initially in Bosnia, an awkward administrative structure divided along civilian and military lines of operations. In Kosovo, the authority structure was more stable, but created a long-term dependency.

Dilemmas of Interim Government

The empirical world has yielded a significant number and variety of interim regimes for study. Reviewing a dozen recent cases of transitional governance yielded a number of insights about the prospects and perils of interim governance in the effort to establish peace and democracy.[9] Of these, the most striking theme is the persistence of power. As the earliest group of transition scholars noted, those governments with the best records are the ones that were designed and driven more by internal than external powers.

Groups that were powerful at the end of the conflict phase tend to be the ones that remain powerful, with the possible exception of transitions by foreign invasion.[10] Structural factors, such as economic or socio-cultural divisions that lead to disaffection between citizens and elites, are unlikely to be cured by the act of voting.[11] Transition processes tend to entrench in power those individuals and factions who have the ability to derail a peace process by taking up arms, and so possess "veto power."

Power-sharing approaches have been favored by the international community in part because they are local solutions, less costly, and likely to ensure peace in the short run, since they bring the relevant parties to the table. Power-sharing is also a risky approach and, as a compromise, unlikely to represent progress.[12] This is a pernicious possibility in a highly indigenous structure: the prospect that those more interested in personal power than long-term stability will manipulate negotiations and power-sharing agreements to strengthen their ability to wage war. When peace agreements and a transitional government are initiated before peace is secured, combatants are able to stay outside the transitional process at will.

If change is needed, an international administrative authority might create a shock to the system.[13] However, even in cases in which deep changes were sought by international actors, those changes fell short. The United Nations Transitional Authority (UNTAC) in Cambodia provided a large commitment of troops and time. However, UNTAC's efforts to preserve functioning state institutions gave an advantage to the incumbent, Hun Sen, a despotic dictator. In Afghanistan, an international coalition working together with local insurgents overthrew the Taliban regime that had held the nation in a reactionary ideological grip and openly supported terrorist groups. Whether due to an inadequate resolution on the ground, crafty negotiations by warlords in the *loya jirga* constitutional process, or both, economic and other progress is scarce and instability threatens.

Fully internationalized governments have difficulty extending powers, achieving capacity and transparency, and are ill-suited to address disconnects between the elite and population. Regional neighbors also frequently influence the interim government. The consequence is often more disconnected in already divided societies. A study in Afghanistan by Tufts University found that the outsiders and insiders differed considerably in their comprehension of security in this environment. While formally the transitional political process was inclusive, it did not reach out to the everyday lives of the people. "The extent of disenfranchisement," Antonio Donini observes, "is proportional to the distance—geographical, cultural, or political—from the capital."[14] It is ideal to conduct an early transfer of executive authority, with step-by-step reductions in scope for a peacekeeping mission. Economic control may be slower to regain than political control.

International scholarship and practice in general is disposed to focus on negotiations with elite power-sharing and division of spoils. The options are much more varied in practice than whether an international, caretaker or power-sharing government might bridge a gap in rule. In plural societies, a wide range of options is available to channel conflict so that groups can coexist without being assimilated by one another. A proportional representation system of election, for example, by including representative numbers of interest groups, can ensure that these voices are heard.[15] When these approaches are taken, care and attention to party structure and development is also vital. Similarly, divided and federal government structures are other ways to create checks on power and build manageable governance units. The dilemma for transitional governments is to navigate existing powers that may be across the minefield of short-term interests, to a structure which will create the best footing for effective governance, and the horizontal and vertical legitimacy of a permanent domestic government.

Conclusion

It is ultimately in the enlightened self-interest of the international community to pay attention to who rules when the fighting stops, and how that question is settled. Without the mechanism to include all political actors, there is little hope for a stable peace, so the governance structure must be participatory and reflect progress toward a democratic state. Insurgents aim to change the status quo. When those factions have a stake in the political order, the prospects that they will put down their arms will improve.